

1970

c 281 Motor Vehicle Accident Claims Act

Ontario

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CHAPTER 281

The Motor Vehicle Accident Claims Act

1. In this Act,

Interpre-
tation

- (a) "Department" means the Department of Transport;
- (b) "driver's licence" means an operator's licence or chauffeur's licence issued under *The Highway Traffic Act*; R.S.O. 1970, c. 202
- (c) "Fund" means the Motor Vehicle Accident Claims Fund;
- (d) "insured motor vehicle" means a motor vehicle,
 - (i) that is insured under a motor vehicle liability policy in accordance with *The Insurance Act*, or R.S.O. 1970, c. 224
 - (ii) in respect of which there is on deposit with the Registrar money, securities or a bond in an amount equal to the minimum limit of liability prescribed under section 218 of *The Insurance Act*, or
 - (iii) in respect of which the owner is exempt from the payment of registration fees under the regulations made under *The Highway Traffic Act*, or
 - (iv) that is registered under *The Highway Traffic Act* in the name of a municipality;
- (e) "licence" means an operator's licence or chauffeur's licence issued under *The Highway Traffic Act*;
- (f) "Minister" means the Minister of Transport;
- (g) "permit" means an owner's permit issued under *The Highway Traffic Act*;
- (h) "Registrar" means the Registrar of Motor Vehicles;
- (i) "uninsured motor vehicle" means a motor vehicle that is not an insured motor vehicle. 1961-62, c. 84, s. 1; 1964, c. 66, s. 1; 1970, c. 113, s. 1.

2.—(1) There shall be a fund to be known as the Motor Vehicle Accident Claims Fund into which shall be paid the fees paid under this section. 1961-62, c. 84, s. 2 (1), *amended*. Fund established

(2) Unless the owner of a motor vehicle,

Uninsured
motor
vehicle fee

- (a) satisfies the Registrar that the motor vehicle is insured under a motor vehicle liability policy in a form prescribed by *The Insurance Act* and approved thereunder by the Superintendent of Insurance for not less than the amounts prescribed under section 218 of *The Insurance Act*; or

R.S.O. 1970,
c. 224

(b) has on deposit with the Registrar money, securities or a bond in an amount equal to the minimum limit of liability provided under section 218 of *The Insurance Act*; or

R.S.O. 1970,
c. 202

(c) is a government or other body or person exempt from paying registration fees under the regulations made under *The Highway Traffic Act* or a municipality,

upon the issuance of a permit or transfer of a permit for the current registration year for the motor vehicle, there shall be paid to the Fund by the person to whom the permit or transfer is issued such fee, to be known as the uninsured motor vehicle fee, as may be prescribed by the Lieutenant Governor in Council. 1970, c. 113, s. 2 (1).

Offence
for false
statement

(3) Every person who knowingly makes a false statement in respect of any matter upon the issuance or transfer of a permit under subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500, and in addition his licence or permit may be suspended for a period of not more than one year. 1961-62, c. 84, s. 2 (3); 1964, c. 66, s. 2.

Fee on
issue or
renewal of
licence

(4) Upon the issue or renewal of a chauffeur's licence or operator's licence under *The Highway Traffic Act*, there shall be paid to the Fund by the person to whom the licence or renewal is issued such fee as may be prescribed by the Lieutenant Governor in Council. 1961-62, c. 84, s. 2 (4).

Uninsured
motor
vehicle fee
payable on
cancellation
of
insurance,
etc.

(5) When the owner of a motor vehicle,

(a) has complied with clause *a* of subsection 2 and the policy of insurance lapses or is cancelled; or

(b) has on deposit with the Registrar securities or a bond as required under clause *b* of subsection 2 and the securities or bond, as the case may be, are cancelled,

the owner shall pay forthwith the uninsured motor vehicle fee. 1970, c. 113, s. 2 (2).

Fund may be
subsidized

(6) The Lieutenant Governor in Council, having regard to the condition of the Fund and the amount paid out of the Fund during any period, may direct payment out of the Consolidated Revenue Fund of such an amount as may be considered necessary or advisable to subsidize the Fund.

Interest
credited
to Fund

(7) Interest shall be credited to the Fund out of the Consolidated Revenue Fund at a rate to be determined by the Lieutenant Governor in Council, and such interest shall be made up at the close of each fiscal year upon the balance in the Fund at the end of the previous calendar year.

Administra-
tion
expenses

(8) The Lieutenant Governor in Council in each year shall authorize the payment out of the Fund to the Consolidated

Revenue Fund of an amount for the payment of expenses in connection with the administration of the Fund. 1961-62, c. 84, s. 2 (6-8).

3.—(1) Subject to subsection 4, the owner of a motor vehicle who operates or permits the operation of the motor vehicle on a highway shall, upon the request of a constable or an officer appointed for carrying out the provisions of *The Highway Traffic Act*, produce evidence that,

Production of evidence of insurance or payment of fee

R.S.O. 1970, c. 202

- (a) the vehicle is an insured motor vehicle; or
- (b) the uninsured motor vehicle fee has been paid in respect of the motor vehicle.

(2) The Registrar shall issue to the owner of an uninsured motor vehicle a document that may be produced as evidence under subsection 1 that the uninsured motor vehicle fee has been paid in respect of the motor vehicle. 1961-62, c. 84, s. 3 (1, 2).

Document evidencing payment of uninsured motor vehicle fee

(3) Every owner of a motor vehicle who fails to produce evidence under subsection 1 when requested to do so or within a reasonable time of such request is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500.

Offence for failure to produce evidence

(4) Every owner of a motor vehicle who produces false evidence when he is required to produce evidence under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500, and in addition his licence may be suspended for a period of not more than one year. 1970, c. 113, s. 3.

Offence for producing false evidence

(5) Where the owner of a motor vehicle is convicted of an offence under subsection 3 or 4 and he has not paid the uninsured motor vehicle fee for the current year in respect of such motor vehicle, he may be required to pay such fee unless he produces evidence that the motor vehicle was insured at the time the offence was committed.

Payment of uninsured motor vehicle fee

(6) Subsections 1, 3, 4 and 5 do not apply to the owner of a motor vehicle that is registered in a country, state or province other than the Province of Ontario. 1964, c. 66, s. 3.

Application of subss. 1, 3-5

4. The Registrar is deemed to be an agent of the owner and of the operator of every uninsured motor vehicle for service of notice or process in an action in Ontario arising out of the use or operation in Ontario of the uninsured motor vehicle, and, where such an action is commenced,

Registrar agent for owner and operator of uninsured motor vehicle for service of process

- (a) a notice or process shall be served on the Registrar by leaving a copy thereof with or at the office of the Registrar; and

- (b) a copy of the notice or process shall be sent forthwith by registered mail to the defendant at his last address as recorded with the Department. 1961-62, c. 84, s. 4 (1); 1965, c. 75, s. 1.

Application
for payment
out of Fund
where person
has cause
of action

5.—(1) Where the death of or personal injury to or loss of or damage to property of any person is occasioned in Ontario by an uninsured motor vehicle, any person who would have a cause of action against the owner or driver of such uninsured motor vehicle in respect of such death, personal injury, loss or property damage, except a person entitled to make an application under subsection 1 of section 6, may make application, in a form prescribed by the Minister, for payment out of the Fund of the damages in respect of such death, personal injury, loss or property damage, provided that no amount of less than \$50 is payable in respect of such loss or property damage.

Notice to
owner and
driver

(2) Upon receipt of an application under subsection 1, the Minister shall, by registered mail, forward a notice of the application for payment out of the Fund to the owner and the driver of the uninsured motor vehicle against whom liability for the damages occasioned by the operation of the uninsured motor vehicle is alleged, to their last addresses as recorded with the Department.

Payment out
of Fund
authorized

(3) The Minister may, in respect of an application made under subsection 1, make payment out of the Fund, subject to section 22, of an amount that he considers proper in all the circumstances if,

- (a) the applicant executes a release under seal of all claims arising out of the motor vehicle accident that occasioned the damages to be paid out of the Fund; and
- (b) subject to clause c, the owner and driver of the uninsured motor vehicle, against whom liability for the damages occasioned by the operation of the motor vehicle is alleged, execute a consent to the payment of the sum for damages out of the Fund and also execute under seal an undertaking to repay to the Fund the amount to be paid from the Fund; or
- (c) the person to whom a notice is sent in accordance with subsection 2 does not reply within thirty days of the date upon which the notice was sent either,
 - (i) by mail, or
 - (ii) by attending in person at the place named in the notice,

and disputes his liability to the person making application under subsection 1. 1961-62, c. 84, s. 5 (1-3).

(4) The release executed under clause *a* of subsection 3 does not affect the rights of recovery of an insured against any person to which an insurer becomes subrogated under section 211 of *The Insurance Act*. 1965, c. 75, s. 2.

Rights of insured to which insurer subrogated
R.S.O. 1970, c. 224

(5) Where an amount is paid out of the Fund under subsection 3, the Minister is subrogated to the rights of the person to whom such amount is paid and the Minister may maintain an action in his name or in the name of such person against any other person or persons responsible for the use or operation of the uninsured motor vehicle. 1961-62, c. 84, s. 5 (4).

Minister subrogated to rights of applicant

(6) Where payment is made under subsection 3, the driver's licence of the person to whom the notice was forwarded under subsection 2 shall be forthwith suspended by the Registrar and shall not be reinstated until such person has,

Suspension of licence

- (a) repaid in full to the Fund the amount paid out; or
- (b) commenced instalment repayments in accordance with an undertaking referred to in clause *b* of subsection 3 or the regulations under section 10. 1970, c. 113, s. 4 (1).

(7) Where a person who has commenced repayment of the amount paid out of the Fund on the undertaking referred to in clause *b* of subsection 3 or by the payment of instalments in accordance with the regulations under section 10 is in default in any payment for a period of ten days, the Registrar shall forthwith suspend the driver's licence of such person. 1970, c. 113, s. 4 (2).

Suspension on default of payment

6.—(1) Subject to section 7, where a person recovers in any court in Ontario a judgment for damages on account of injury to or the death of any person or loss of or damage to property occasioned in Ontario by a motor vehicle owned or operated by the judgment debtor within Ontario, upon the determination of all proceedings, including appeals, he may make application, in the form prescribed by the Lieutenant Governor in Council, for and the Minister shall pay the amount of the judgment or of the unsatisfied portion thereof out of the Fund, provided that, in respect of a judgment for loss of or damage to property, no amount of less than \$50 is payable out of the Fund.

Application for payment of judgment

(2) Where an application is made to the Minister under subsection 1, the Minister may at any time within thirty days of the receipt of the application or within such further time as may be allowed upon application to a judge of the Supreme Court give written notice to the applicant of any objection to payment of the judgment or part of the judgment, and, where the Minister gives the notice, the applicant may apply by way of originating notice to a judge of the Supreme Court for a finding or determination in respect of any matter in connection with the application for payment out of the Fund.

Where Minister objects to payment

Action
against all
persons
reasonably
liable to
be sued

(3) The Minister shall not pay out of the Fund any amount in respect of a judgment unless the judgment was given in an action brought against all persons against whom the applicant might reasonably be considered as having a cause of action in respect of the damages in question and prosecuted against every such person to judgment or dismissal. 1961-62, c. 84, s. 6.

Application
of sec. 6

7.—(1) Section 6 does not apply in the case of a judgment that has been signed in an action in which,

- (a) the defendant did not enter an appearance; or
- (b) the defendant did not file a statement of defence; or
- (c) the defendant did not appear in person or by counsel at the trial; or
- (d) the defendant did not appear in person at an examination for discovery; or
- (e) judgment was signed upon the consent or with the agreement of the defendant,

unless the Minister has been given notice of such failure, consent or agreement and has been afforded an opportunity to take such action as he may consider advisable under subsection 2. 1961-62, c. 84, s. 7 (1); 1964, c. 66, s. 5.

Rights of
Minister

(2) Where the Minister receives notice under subsection 1, he may, if he considers it advisable, enter an appearance within thirty days, file a defence, make payment into court, appear by counsel at the trial or take such other action as he may consider appropriate on behalf and in the name of the defendant, and may thereupon, on behalf and in the name of the defendant, conduct his defence, and may, where he considers it advisable to do so, consent to judgment in such amount as he may consider proper in all the circumstances, and all acts done in accordance therewith shall be deemed to be the acts of such defendant.

Reopening
pleadings

(3) Where pleadings have been noted closed, the Minister may, upon giving notice to the registrar, local registrar or clerk of the court that he intends to defend the action on behalf and in the name of the defendant, reopen the pleadings upon praecipe. 1961-62, c. 84, s. 7 (2, 3).

Infant
defendant

(4) Where the defendant is an infant, the Minister may exercise the rights and take the action referred to in subsection 2 in the name of the infant without the appointment of a guardian *ad litem* and may assert a counterclaim on behalf of the infant without a next friend. 1968, c. 73, s. 1.

Deceased
defendant

(5) Where a deceased person, if living, would be the defendant or the defendant in the action dies and the personal representative, if any, of the deceased person does not defend the action and no administrator *ad litem* is appointed, the Minister may exercise

the rights and take the action referred to in subsection 2 in the name of the deceased and may assert a counterclaim on behalf of the estate of the deceased. 1968-69, c. 73, s. 1.

8.—(1) The Minister shall not pay out of the Fund any sum under section 6 until the judgment creditor assigns the judgment to him. Assignment of judgment to Minister

(2) Upon lodging a copy of the assignment of judgment, certified by the Registrar of Motor Vehicles to be a true copy, with the registrar, local registrar or clerk, as the case may be, of the court in which the judgment was obtained, the Minister shall, to the extent of the amount of the assignment, be deemed to be the judgment creditor. Lodging assignment with court

(3) Where execution is issued in the name of the judgment creditor and a copy of the assignment of judgment, certified as prescribed in subsection 2, is lodged with the sheriff having the writ of execution, the provisions of subsection 2 apply *mutatis mutandis*. 1961-62, c. 84, s. 8. Lodging with sheriff

9. Where the Minister pays out of the Fund any amount in satisfaction of a judgment, the driver's licence of the judgment debtor on whose behalf such payment is made shall be forthwith suspended by the Registrar and shall remain suspended until he has, Suspension of licence

- (a) repaid in full to the Fund the amount paid out; or
- (b) commenced instalment repayments in accordance with section 10 and the regulations made thereunder. 1970, c. 113, s. 5.

10.—(1) The Lieutenant Governor in Council may make regulations providing for the restoration of the drivers' licences and owners' permits of persons indebted to the Fund who are making repayment to the Fund in instalments. Restoration of licence on instalment payments

(2) The regulations shall prescribe the classes of cases to which they apply, and shall provide for the manner of determining the amount of the instalment payments, the time and place of payment and the terms and conditions, including proof of financial responsibility, of the restoration of the licences and permits. Instalment payments and conditions of restoration of licence

(3) When a person is in default of any such payment for a period of ten days, the Registrar shall forthwith suspend the driver's licence and owner's permit or permits of such person. 1961-62, c. 84, s. 10. Further suspension

11. Where the death of or personal injury to any person is occasioned in Ontario by a motor vehicle but the identity of the motor vehicle and of the driver and owner thereof cannot be Where identity of vehicle cannot be established

established, any person who would have a cause of action against the owner or driver in respect of such death or personal injury may bring an action against the Registrar, either alone or as a co-defendant with others alleged to be responsible for the death or personal injury. 1961-62, c. 84, s. 11.

Idem

12. Where an action has been commenced in respect of the death of or injury to any person occasioned in Ontario by a motor vehicle and it is alleged that the death or injury was caused or contributed to by another motor vehicle, the identity of which and the owner and driver thereof cannot be established, the Registrar may be added as a defendant on the application of any party and shall be added as a defendant on his own application. 1961-62, c. 84, s. 12.

Non-jury action

13. When the Registrar is a party to an action, the action shall be tried by a judge without a jury. 1961-62, c. 84, s. 13.

Where owner known but identity of driver cannot be established

14. When the death of or personal injury to any person is occasioned in Ontario by a motor vehicle at a time when the motor vehicle was without the owner's consent in the possession of some person other than the owner or his chauffeur and the identity of the person in possession of the motor vehicle cannot be established, any person who would have a cause of action against the person in possession of the motor vehicle in respect of such death or injury may bring an action against the Registrar. 1961-62, c. 84, s. 14.

General denial

15. In an action against the Registrar, the Registrar may deny generally the allegations in respect of the unidentified motor vehicle and unidentified owner and driver thereof and shall not be required to set forth the facts upon which he relies. 1961-62, c. 84, s. 15.

All reasonable efforts to ascertain identity condition to granting judgment

16. In an action against the Registrar, a judgment against the Registrar shall not be granted unless the court in which the action is brought is satisfied that all reasonable efforts have been made by the parties, other than the Registrar, to ascertain the identity of the motor vehicle and of the owner and driver thereof, and that,

- (a) in the case of actions under section 11, the identity of the motor vehicle and of the owner and driver thereof cannot be established; or
- (b) in the case of actions under section 14, the identity of the driver of the motor vehicle that caused the death or injury cannot be established. 1964, c. 66, s. 6.

Time limit for actions against Registrar
R.S.O. 1970, c. 202

17. All actions against the Registrar may be commenced only within the times limited for actions under section 146 of *The Highway Traffic Act*. 1961-62, c. 84, s. 17.

18. Where judgment is obtained against the Registrar, upon the determination of all proceedings, including appeals, the Minister, subject to subsection 5 of section 22, shall pay out of the Fund to the plaintiff in the action the amount of the judgment. 1961-62, c. 84, s. 18.

Payment of
judgment
against
Registrar

19.—(1) Where judgment has been obtained against the Registrar, the Registrar may at any time thereafter, by originating notice, apply,

Order of
judgment as to
owner or
driver

- (a) where judgment has been obtained in the Supreme Court, to a judge or local judge thereof;
- (b) where judgment has been obtained in a county or district court, to a judge thereof; and
- (c) where judgment has been obtained in a small claims court of a county or district, to a judge of the county or district court of the county or district,

for an order declaring that any person was, at the time of the accident, the owner or driver of the motor vehicle that occasioned the death or injury in respect of which the judgment was obtained.

(2) Upon the making of an order declaring that any person was the owner or driver of a motor vehicle,

Owner or
driver
defendant
in action

- (a) such person shall for the purpose of this Act be deemed to be the defendant in the action in which judgment was given against the Registrar, and the judgment against the Registrar shall be deemed to be a judgment against such person; and
- (b) the Minister shall be deemed to have a judgment against such person for the amount of all moneys paid out of the Fund in respect of the judgment and accordingly has all the rights of a judgment creditor, including the right to recover any moneys that would have been payable in respect of the death or injury under any policy of insurance that was in force at the time of the accident. 1961-62, c. 84, s. 19.

20. In an action brought against the Registrar, the Registrar is not personally liable to satisfy a judgment obtained in the action. 1961-62, c. 84, s. 20.

Registrar
not
personally
liable

21. No payment shall be made out of the Fund in respect of a claim or judgment for damages or in respect of a judgment against the Registrar of an amount paid or payable by an insurer by reason of the existence of a policy of insurance within the meaning of *The Insurance Act*, other than a policy of life insurance, and no amount sought to be paid out of the Fund shall be sought in lieu of making a claim or receiving a payment that is payable by reason

Payments in
relation to
amounts
payable by
insurer, etc.,
prohibited
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c. 224

of the existence of a policy of insurance within the meaning of *The Insurance Act*, other than a policy of life insurance, and no amount so sought shall be sought for payment to an insurer to reimburse or otherwise indemnify the insurer in respect of any amount paid or payable by the insurer by reason of the existence of a policy of insurance within the meaning of *The Insurance Act*, other than a policy of life insurance. 1961-62, c. 84, s. 21.

Limits
payable
from Fund

22.—(1) In respect of any application under section 5 or 6 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of September, 1969, and subject to subsection 5, the Minister shall not pay out of the Fund more than the total amount of \$50,000, exclusive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one uninsured motor vehicle and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$5,000, but in any event the Minister shall not pay out of the Fund more than a total of \$5,000 in respect of all claims arising out of the loss of or damage to property occasioned by any one uninsured vehicle and arising out of any one accident.

Idem

(2) In respect of applications under section 5 or 6 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of October, 1962, and before the 1st day of September, 1969, and subject to subsection 5, the Minister shall not pay out of the Fund more than the total amount of \$35,000, exclusive of costs, for all damages on account of injury to one or more persons, death of one or more persons, loss of property and damage to property arising out of any one accident, and, where in any one accident damages result from bodily injury or death and loss of or damage to property, the claims arising out of such loss of or damage to property have priority over claims arising out of such bodily injury or death to the extent of \$5,000, and in any event the Minister shall not pay out of the Fund more than a total amount of \$5,000 in respect of all claims arising out of loss of or damage to property in any one accident. 1968-69, c. 73, s. 2 (1).

Idem

(3) In respect of applications under section 5 or 6 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of January, 1958, and before the 1st day of October, 1962, the Minister shall not pay out of the Fund,

- (a) more than \$10,000, exclusive of costs, on account of injury to or the death of one person, and, subject to such limit for any one person so injured or killed, not more than \$20,000, exclusive of costs, on account of injury to

or the death of two or more persons in any one accident;
and

- (b) more than \$2,000, exclusive of costs, for loss of or damage to property resulting from any one accident.

(4) In respect of applications under section 5 or 6 for payment ^{Idem} of damages arising out of motor vehicle accidents occurring in Ontario after the 1st day of July, 1947, and before the 1st day of January, 1958, the Minister shall not pay out of the Fund,

- (a) more than \$5,000, exclusive of costs, on account of injury to or the death of one person, and, subject to such limit for any one person so injured or killed, not more than \$10,000, exclusive of costs, on account of injury to or the death of two or more persons in any one accident; and
- (b) more than \$1,000, exclusive of costs, for loss of or damage to property resulting from any one accident. 1961-62, c. 84, s. 2 (2, 3).

(5) Subject to subsection 6, the Minister shall not pay out of the Fund in respect of judgments against the Registrar for damages,

- (a) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of September, 1969, more than \$50,000, exclusive of costs, for all damages on account of injury to one or more persons and the death of one or more persons occasioned by any one uninsured motor vehicle and arising out of any one accident; or
- (b) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of October, 1962, and before the 1st day of September, 1969, more than the total amount of \$35,000, exclusive of costs, for all damages on account of injury to one or more persons and the death of one or more persons arising out of any one accident; or
- (c) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of January, 1958, and before the 1st day of October, 1962, more than \$10,000, exclusive of costs, on account of injury to or the death of one person, and, subject to such limit for any one person so injured or killed, not more than \$20,000, exclusive of costs, on account of injury to or the death of two or more persons in any one accident; or
- (d) arising out of motor vehicle accidents occurring in Ontario after the 1st day of July, 1947, and before the 1st day of January, 1958, more than \$5,000, exclusive of costs, on account of injury to or the death of one person, and, subject to such limit for any one person so injured

or killed, not more than \$10,000, exclusive of costs, on account of injury to or the death of two or more persons in any one accident. 1961-62, c. 84, s. 22 (4); 1968-69, c. 73, s. 2 (2).

Partial
discharge
of judgment
debt

(6) Where any amount is recovered from any other source in partial discharge of the judgment debt, the maximum amount prescribed in this section shall be reduced by the amount so paid, and any amount paid out of the Fund in excess of the amount authorized by this section may be recovered by action brought by the Minister. 1961-62, c. 84, s. 22 (5).

Interest

(7) The Minister shall not pay out of the Fund any amount for interest on a judgment or interest on costs. 1964, c. 66, s. 7.

Interpre-
tation

23.—(1) In this section, "residence" shall be determined as of the date of the motor vehicle accident as a result of which the damages are claimed.

Payments
to non-
residents

(2) The Minister shall not pay out of the Fund any amount in favour of a person who ordinarily resides outside of Ontario unless such person resides in a jurisdiction in which recourse of a substantially similar character to that provided by this Act is afforded to residents of Ontario, provided that no payment shall include an amount that would not be payable by the law of the jurisdiction in which such person resides. 1961-62, c. 84, s. 23.

Costs

24.—(1) The Minister shall pay out of the Fund costs of an action but not more than the actual disbursements and fees as awarded in the judgment as between the parties to the action.

Idem

(2) Where, by reason of an action having been maintained in part by an insurer, an application under this section is for payment out of the Fund of only part of the amount of the judgment obtained in the action, the Minister shall not pay out of the Fund more than that part of the costs of the action as awarded in the judgment as between parties to the action that bears the same proportion to the whole of such costs as the total amount of the judgment, less the amount of the insurer's interest in the judgment, bears to the total amount of the judgment.

Solicitor's
fee

(3) Where a solicitor has completed the application referred to in subsection 1 of section 6 and the assignment of judgment and has issued execution and filed it with the sheriff, he is entitled to a fee of \$30 out of the Fund, and such fee includes disbursements.

Direction
of Minister
for payment
of solicitor's
fee

(4) If the Minister is satisfied that it is not feasible to issue and file execution as required under subsection 3, he may waive such requirements, and in such case the solicitor is entitled to the fee under subsection 3. 1961-62, c. 84, s. 24.

25.—(1) No money shall be paid out of the Fund under or in respect of an order or judgment until the bill or bills of costs of the barrister or solicitor acting or who acted for the applicant in the application or action that resulted in the order or judgment, as taxed on a solicitor and client basis, is filed with the Minister. Bill of costs to be taxed and filed

(2) No amount shall be charged or received either directly or indirectly for legal services in connection with any application or action referred to in subsection 1, other than the amounts as taxed on a solicitor and client basis in the bill or bills of costs. Fees limited to taxed costs

(3) No order is required to tax such a bill. 1961-62, c. 84, s. 25. No order required

26. The practice and procedure of the Supreme Court or the court in which the application or action is brought, including the right of appeal and the practice and procedure relating to appeals, apply to an application or action brought under this Act. 1961-62, c. 84, s. 26. Practice and procedure
